

Message Text

UNCLASSIFIED

PAGE 01 BOMBAY 01288 241237Z
ACTION FBOE-00

INFO OCT-01 NEA-11 ISO-00 A-01 L-03 SSO-00 /016 W
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O R 241202Z MAY 78
FM AMCONSUL BOMBAY
TO SECSTATE WASHDC IMMEDIATE 8271
INFO AMEMBASSY NEW DELHI

UNCLAS BOMBAY 1288

E.O. 11652 SXA
TAGS: ABLD, ACLM, IN
SUBJ: AGA KHAN PROPERTY

REF: A. NEW DELHI 7860 B. NEW DELHI 7861 C. NEW DELHI 7868

1. THE ACQUISITION OF THE SUBJECT PROPERTY BY THE CONSULATE HAS
BECOME A SUBJECT MATTER OF LITIGATION BEFORE THE CHARITY COMMISSIONER,

A QUASI-JUDICIAL AUTHORITY UNDER THE BOMBAY PUBLIC TRUST ACT. A
SPECULATIVE BUILDER OF BOMBAY HAS MOVED THE CHARITY COMMISSIONER
TO REVOKE HIS PERMISSION GRANTED EARLIER ON MARCH 23, 1978, AND
PRAYING FURTHER THAT THE COMMISSIONER BE DIRECTED TO INVITE FRESH
OFFERS BY ADVERTISING IN LOCAL NEWSPAPER. THIS PERMISSION IS A
CONDITION PRECEDENT FOR EXECUTION OF OUR OPTION TO PURCHASE THE
PROPERTY, DATED OCTOBER 1, 1976. THE CHARITY COMMISSIONER HAD BY
HIS LETTER OF MAY 18, 1978, ADDRESSED THE CONSUL GENERAL BOMBAY
TO (A) PUT IN AN APPEARANCE, AND (B) FILE A WRITTEN STATEMENT
EITHER BY HIMSELF OR THROUGH AN ADVOCATE ON MAY 30, 1978.

2. CONGEN HELD CONSULTATIONS WITH THE LOCAL COUNSEL AT
WHICH USAID MISSION LAWYER, B.M. RAO, ALSO PARTICIPATED.
IN THE OPINION OF THESE LAWYERS IT APPEARS NECESSARY AND
IMPORTANT THAT THE UNITED STATES OF AMERICAN BE FORMALLY
REPRESENTED BEFORE THE CHARITY COMMISSIONER ON MAY 30 TO
PROTECT THE USG INTERESTS.

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3. IN ORDER FOR THE USG TO MAKE AN EFFECTIVE REPRESENTATION
BEFORE THE CHARITY COMMISSIONER, IT IS NECESSARY THAT WE
FORMALLY APPEAR AND MAKE WRITTEN AND ORAL STATEMENTS, WHICH
WOULD PROBABLY CONSITUTE A WAIVER OF IMMUNITY. HOWEVER
UNLESS WE APPEAR WE WOULD NOT BE IN A POSITION TO DEFEND OUR
INTERESTS EFFECTIVELY AND GOVERNMENT OF MAHARASHTRA AND THE

VENDOR MAY BE LESS FORCEFUL IN SUPPORTING THE ORDER WHICH IS VITAL TO OUR PURCHASE OF THE PROPERTY.

4. IN THE VENT THE CHARITY COMMISSIONER REVOKES HIS EARLIER ORDER, WE BELIVE THAT WE THEN WOULD WANT TO MOVE THE HIGH COURT OF BOMBAY AGAINST SUCH AN ADVERSE ORDER. IN ORDER THAT WE BE ABLE TO LAUNCH LITIGATION AT HIGHER FORUMS, WE NEED TO LAY GROUND-WORK AT THIS STAGE.

5. CONGEN IS GOING AHEAD WITH THE DRAFTING OF NECESSARY PETITIONS FOR FILING BEFORE CHARITY COMMISSIONER. UNLESS CONGEN HEARS ANYTHING TO THE CONTRARY FROM THE DEPARTMENT, COUNSEL IS BEING INSTRUCTED TO MAKE FORMAL APPEARANCES BEFORE THE CHARITY COMMISSIONER ON MAY 30.
COURTNEY

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